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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,324	06/30/2003	Steven M. Casey	020366-091600US	4044

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

HAROLD, JEFFEREY F

ART UNIT	PAPER NUMBER
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2646

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,324

Applicant(s)

CASEY ET AL.

Examiner

Jefferey F. Harold

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4,5,7-12,14-23,27,29-32 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,5,7-12,14-23,27,29-32 and 34-36 is/are allowed.
- 6) ☒ Claim(s) 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Attorney Consultation

2. Authorization for this examiner's amendment was given in a telephone interview with Stephen Jewett on July 22, 2005.

Amendment to Claims

3. The application has been amended as follows:
- (i) In claim 29, line 1 remove "28" and insert -27—
 - (ii) In claim 37, line 10 remove "stored"

Allowable Subject Matter

4. ***Claims 4, 5, 7-12, 14-23, 27, 29-32, and 34-36*** are allowed.

5. The following is an examiner's statement of reasons for allowance:

Regarding **claim 4**, the prior art of record failed to disclose or fairly suggest a programmed server for both selectively passing electrical power from the communication channel to the storage device and selectively passing electrical power

from the storage device to the temperature controlling device. The electrical power is passed from the channel when the electrical power at the storage device falls below a threshold. The electrical power is selectively passed to the temperature controlling device in response to a predetermined temperature threshold within the network interface device.

Regarding **claim 21**, the prior art of record failed to disclose or fairly suggest temperature controlling means for controlling the temperature at the NID; storing means for storing electrical power at the NID; and programmed server means at the NID for selectively passing electrical power from the telecommunications line to the storing means when the electrical power at the storage device falls below a predetermined level, so that the storing means may be used to provide electrical power to the temperature controlling means, and for selectively passing electrical, power from the storing means to the temperature controlling means in response to a predetermined temperature within the NID.

Regarding **claim 27**, the prior art of record failed to disclose or fairly suggest powering the temperature controlling device with electrical power from a storage device at the NID; using current from telecommunications signals on the telecommunications line to store electrically power at the storage device; providing a programmed server at the NID; and using the server for: periodically checking the level of power stored at the storage device, and selectively passing current on the telecommunications line to the storage device when the level of power store is below a predetermined level; sensing

the temperature at the NID; and powering the temperature controlling device when the temperature at the NID reaches a predetermined level.

Regarding **claim 34**, the prior art of record failed to disclose or fairly suggest a storage device for storing electrical power that may be used for powering the temperature controlling device; and a programmed server for selectively passing electrical power from the telecommunications line to the storage device when the stored electrical power at the storage device is below a predetermined level, for selectively passing electrical power from the storage device to the temperature controlling device in response to a predetermined temperature at the active service device, and for sensing the electrical current level on the telecommunications line and providing an alarm signal if the current level is insufficient to power the active service device, the subscriber equipment, and the temperature controlling device.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. ***Claim 37*** is rejected under 35 U.S.C. 103(a) as being unpatentable over Cowan in view of Ninh (United States Patent 6,212,274).

Regarding **claim 37**, Cowan discloses a system for powering and controlling the temperature of a network interface device (NID) that is located at a subscriber premises, wherein the NID connects a telecommunications line from a telecommunications network to the subscriber premises, wherein the NID includes at least one active service device used in providing the telecommunications service to the subscriber, and wherein the subscriber premises includes subscriber equipment, the system comprising: a temperature controlling device (thermostat) that is powered from electrical power; an auxiliary power device (transformer 34) for powering the temperature controlling device (fan 24) independently of the electrical power from the telecommunications line, selectively passing power to the temperature controlling device in response to a predetermined temperature at the active service device, as disclosed at column 3, lines 6-41 and exhibited in figures 1 and 2; however, Cowan fails to disclose being powered from electrical power on the telecommunications line and for selectively passing power from the auxiliary power device when the power from the telecommunications line is insufficient to provide power. However, the examiner maintains that it was well known

in the art to provide being powered from electrical power on the telecommunications line and for selectively passing power from the auxiliary power device when the power from the telecommunications line is insufficient to provide power, as taught by Ninh.

In a similar field of endeavor Ninh discloses a line powered modem. In addition, Ninh discloses being powered from electrical power on the telecommunications line and for selectively passing power from the auxiliary power device (bus voltage 116) when the power from the telecommunications line is insufficient to provide power, as disclosed at column 3, line 41 through column 4, line 37.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cowan by specifically providing being powered from electrical power on the telecommunications line and for selectively passing power from the auxiliary power device when the power from the telecommunications line is insufficient to provide power, as taught by Ninh, for the purpose of providing all the power needed to run a device from the power line and supplement the power from a secondary system.

Response to Arguments

7. Applicant's arguments with respect to claim 37 have been considered but are moot in view of the new ground(s) of rejection.

Citation of Pertinent Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Barrese et al. (United States Patent Application Publication 2002/0076038) discloses a telephone line power supply.

Karam (United States Patent 6,912,282) discloses enabling Cisco legacy power to support 802.3 AF standard power.

Cohen (United States Patent 6,665,404) discloses a method and device for power supply in telecommunication systems.

Sakuragi et al. (United States Patent 5,461,671) discloses a telephone line power utility circuit.

Tentler et al. (United States Patent 4,961,220) discloses power management in a microprocessor-controlled battery powered telephone device.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F. Harold whose telephone number is 571-272-7519. The examiner can normally be reached on Monday - Friday 9 am - 5:30 pm.

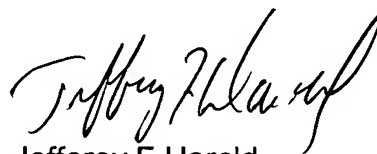
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JFH

August 4, 2005



Jefferey F Harold
Primary Examiner
Art Unit 2646